



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST REGIONAL OFFICE

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CERTIFIED MAIL

June 11, 2007

Richard A. Nylen, Esq.
Lynch DeSimone & Nylen, LLP
12 Post Office Square
Boston, Massachusetts 02109

Re: NEWBURYPORT - Solid Wastes/COR
Crow Lane Landfill
Resumption - Placement of C & D
Approval
FMF No. 39545

Dear Attorney Nylen:

As you know, on April 12, 2007, MassDEP issued a notice that New Ventures Associates LLC ("New Ventures") immediately cease and thereafter desist from receiving or placing any of C&D Fines and Residuals at the Landfill pursuant to paragraph nine (9) of the Preliminary Injunction entered on October 20, 2006 in *Commonwealth of Massachusetts v. New Ventures Associates, LLC*, Suffolk Superior Court, Civil Action No. 06-0790 C, as amended by order of the Court on November 1, 2006 and February 22, 2007 (the "Order"). The April 12, 2007 notice identified several instances of New Ventures' noncompliance with the Order.

Among other actions taken after April 12, 2007 to return to compliance with the Order, New Ventures on June 4, 2007, submitted to MassDEP a revised Geotechnical Evaluation and revised design plan for the perimeter berm to address MassDEP's March 7, 2007 Notice of Technical Deficiency. In addition, recent monitoring data collected by MassDEP representatives during inspections of the Landfill indicates New Ventures has made progress in reducing the intrusion of ambient air into the pre-treatment system although the vessels are not at this time completely airtight.

On June 8, 2007, representatives of The Massachusetts Department of Environmental Protection, Northeast Regional Office ("MassDEP") and the Office of the Attorney General conducted an inspection with you of

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the Crow Lane Landfill in Newburyport, Massachusetts. MassDEP and the Office of the Attorney General conducted the inspection to determine whether New Ventures had, as described in your June 7, 2007 letter to MassDEP and the Office of the Attorney General:

1. completed installation of the permanent connection of the landfill gas pre-treatment system, the enclosed flare, and the third pre-treatment vessel to the landfill gas extraction system;
2. resumed pumping the leachate collection tanks at the Landfill;
3. substantially completed the construction of storm water Basin 2;
4. resumed collection and laboratory analysis of monthly landfill gas samples from the enclosed flare; and
5. installed and repaired the tarps at the Landfill within areas of exposed C&D Fines and Residuals.

MassDEP and the Office of the Attorney General confirmed during the June 8, 2007 inspection that New Ventures had:

- completed installation of the permanent connection of the landfill gas pre-treatment system, enclosed flare, and third pre-treatment vessel to the landfill gas extraction system;
- resumed pumping the leachate collection tanks at the Landfill; and
- substantially completed construction of the storm water Basin 2.

However, during the June 8 inspection, MassDEP and the Office of the Attorney General identified areas of the Landfill that require the placement and/or repair of tarps including, without limitation uncovered areas along the south slope on Crow Lane and the north slope at the top of the haul road.

During the June 8 inspection, New Ventures agreed to place and/or repair the tarps in the foregoing areas as identified by MassDEP and to continue the pumping of the leachate tanks in accordance with the provisions of the Order. As a result, MassDEP scheduled an inspection of the Landfill for the late afternoon of June 11, 2007 to confirm New Ventures has performed the agreed to tasks.

On June 11, 2007, MassDEP personnel inspected the Landfill and, pursuant to Paragraph 9 of the Order, MassDEP hereby authorizes New Ventures to resume the placement of C & D Fines and Residuals at the Crow Lane Landfill in Newburyport, Massachusetts in accordance with paragraphs 3 through 6, inclusive, of the Order, provided that New Ventures remains in compliance with the Order.

In addition, MassDEP, the Office of the Attorney General, and New Ventures have agreed to meet on June 13, 2007 to discuss other operational and compliance issues, including those identified in MassDEP's April 12, 2007 Notice of Noncompliance that New Ventures contends are not grounds under the Preliminary Injunction for MassDEP to order New Ventures to cease the receipt and placement of C&D Fines and Residuals at the Landfill. The following items are among those that will be discussed:

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- odor control,
- the FML contract,
- erosion of the perimeter berm,
- the temporary storm water controls,
- leachate management, and
- operation of the LFG Extraction System.

By issuing this approval for the resumption of C&D Fines and Residuals placement, neither MassDEP nor the Office of the Attorney General waive any challenge or assent to New Ventures' assertions, contained in your April 27, May 18, and June 7, 2007 correspondence, that certain issues identified in MassDEP's April 12, 2007 Notice of Noncompliance do not constitute grounds for ordering that New Ventures cease the placement of C&D Fines and Residuals at the Landfill pursuant to paragraph nine (9) of the Order. MassDEP and the Office of the Attorney General hereby expressly reserve all their rights with regard to any disputed or challenged issues of fact or questions of law surrounding New Ventures' compliance with the Order, including, without limitation, all disputed issues in MassDEP's April 12, 2007 Notice of Noncompliance.

If you have any questions please contact me at (978) 694-3299.

Sincerely,

**This final document copy is being provided to you electronically by the
Massachusetts Department of Environmental Protection.
A signed copy of this document
is on file at the DEP office listed on the letterhead.**

John A. Carrigan, Chief
Solid Waste Management Section

Certified Mail Number: 7006 2760 0000 4034 7600

JAC/jac

Cc: John Morris
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